

REMARKS

Responsive to the Office Action mailed March 12, 2009, Applicants provide the following. Claims 1, 16, 17, 18, 23 and 29 have been amended. Claim 6 was previously canceled without prejudice. Claim 30 has been added without adding any new matter. Thus, Twenty-Nine (29) claims remain pending in the application: Claims 1-5 and 7-30. Reconsideration of claims 1-5 and 7-29 and consideration of new claim 30 in view of the amendments above and remarks below is respectfully requested.

By way of this amendment, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues, it is respectfully requested that the Examiner telephone the undersigned at (858) 552-1311 so that such issues may be resolved as expeditiously as possible.

Claim Rejections - 35 U.S.C. § 102

Claims 1-16 and 23-28 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,343,317 to Jokinen. Applicants respectfully traverse these rejections and submit that Jokinen fails to describe or suggest at least each limitation as recited in claims 1, 16 and 23.

More specifically, amended claim 1 recites:

detecting a device capable of receiving and transmitting an electronic message;
searching for a plurality of promotions stored in a storage module;
receiving a signal from the detected device and detecting a device profile
corresponding to the device using information contained in the signal wherein the device
profile contains a preference for a product or a service and a geographical boundary; and
selecting a particular promotion from the plurality of promotions based on the
preference for the product or the service and the geographical boundary associated with
the device profile.

Jokinen fails to describe or suggest each limitation as recited in amended claim 1. For example, Jokinen fails to describe, “receiving a signal from the detected device and detecting a device profile corresponding to the device using the information contained in the signal.”

The Examiner in suggesting that Jokinen describes this limitation states, “a cell phone

system must inherently send and receive its identification in order to be contacted. Therefore, this information is taught in the signal,” (Office Action, pg. 4). However, Jokinen fails to disclose such a signal being sent from any device and furthermore fails to describe detecting a device profile using the information contained in such a signal. Instead, Jokinen discloses a method of sending advertisements where the Jokinen advertisement server 40 checks the database 45 to determine a number of available devices, then the server 40 looks of the profile of the available devices in a database 36 and “determines the potential customers who should receive a particular advertising message based on the profiles.” (See Jokinen, col. 6, ln. 32-col. 7, ln. 2 and FIG. 3A).

Therefore, the method of Jokinen does not first receive a signal from the cell phone, equated with the device recited in claim 1, and does not detect a device profile using the information contained in the signal. Instead, Jokinen determines the available devices for which advertisements can be provided by checking all of the devices within database 45 (see Jokinen, col. 6, lns. 50-65). As such, it is not inherent that the cell phone in Jokinen sends a signal and the device profile is detected based on information from the signal. Instead, in Jokinen, the device profile is retrieved from the database 45 prior to any communication from the device, and the device is contacted based on the determination by the advertisement server 40 that the device is available. As such, Jokinen does not disclose, “receiving a signal from the detected device and detecting a device profile corresponding to the device using the information contained in the signal,” as recited in at least claim 1.

Independent claim 16 has been amended to recite language similar to that of claim 1 and therefore, is also not anticipated by Jokinen. As such, Applicants respectfully request that the rejection to claim 16 be withdrawn.

Independent claim 23 has been amended to recite, “receiving a signal from the device containing information and retrieving the user profile information using the information.” Applicants respectfully submit that Jokinen fails to describe or suggest this limitation at least for the same reasons as discussed above with respect to claim 1. As such, Applicants respectfully request that the rejection to claim 23 be withdrawn.

Claims 2-5, 7-15 and 24-28 depend from independent claims 1 and 23. As such, these claims are also allowable at least due to their dependence on allowable independent claims 1 and 23. As such, Applicants respectfully request that the rejection to these claims be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 17-22 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Pub. No. 2004/0117255 to Nemirofsky in view of U.S. Patent No. 5,855,006 to Huemoeller. Applicants traverse this rejection and submit that the above-cited combination fails to render claims 17-22 and 29 obvious.

Claim 17 recites, in part:

“detecting a plurality of devices capable of receiving and transmitting an electronic message;
detecting a jointly scheduled meeting stored on at least one of the plurality of devices, wherein the scheduled meeting is among participants including at least one participant associated with the at least one of the plurality of devices;
receiving a location parameter from the at least one of the plurality of devices for the scheduled meeting;
searching for a plurality of promotions stored in a storage module; and
selecting a particular promotion from the plurality of promotions based on the location parameter.”

Applicants respectfully submit that above cited combination fails to describe or suggest, detecting a jointly scheduled meeting stored on at least one of the plurality of devices, and receiving a location parameter from the at least one of the plurality of devices for the scheduled meeting. As discussed above, the Applicants have made this amendment in response to the Examiner interview conducted June 2, 2009. Support for this amendment may be found at least at paragraphs 0003 and 0073 of Applicants' published application (US 2005/0228716). As such, Applicants respectfully submit, that claim 17 is not rendered obvious by the above-cited references. As such, Applicants respectfully request that the rejection to claim 17 be withdrawn.

Amended independent claim 29 recites language similar to that of claim 17, and therefore is also not rendered obvious at least for the reasons discussed above. As such, Applicants respectfully request that the rejection to claim 29 be withdrawn.

Claims 18-22 are dependent upon claim 17, and thus, are also allowable at least due to their dependence upon allowable independent claim 17. As such, Applicants respectfully request that the rejection to claims 18-22 be withdrawn.

New Claims

Newly submitted claim 30 is believed to be allowable because it is directed to that which is not shown or suggested in the prior art. Support for new claim 30 can be found at least at paragraph 0003 and 0073 of Applicants' published application (US 2005/0228716).

Allowable Subject Matter

In the Office Action the Examiner indicates that claim 17 recites allowable subject matter but is not yet allowable because the language "a scheduled meeting" is not functional in claim 17 (see Office Action, pg. 2). Applicant has amended claim 17 to recite "detecting a jointly scheduled meeting stored on at least one of the plurality of devices, wherein the scheduled meeting is among participants including at least one participant associated with the at least one of the plurality of devices." Support for this amendment may be found at least at paragraphs 0003 and 0073 of Applicants' published application. This amendment was discussed with the Examiner during the interview, conducted on June 2, 2009 and summarized above, and the Examiner agreed that the amendment reads over the cited art. Applicants further amended claim 29 to recite similar language. As such, Applicant respectfully submits that Claims 17 and 29 are in condition for allowance.

CONCLUSION

Applicant submits that the above amendments and remarks place all of the pending claims in condition for allowance. Accordingly, a notice of allowance is respectfully requested.

Address all correspondence to:
FITCH, EVEN, TABIN & FLANNERY
120 So. LaSalle Street, Ste. 1600
Chicago, IL 60603

Direct telephone inquiries to:
Thomas F. Lebens
(805) 541-2800
San Luis Obispo, California Office of
FITCH, EVEN, TABIN & FLANNERY

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By: 

Thomas F. Lebens
Registration No. 38,221
Attorney for Applicant

Date: June 12, 2009